

810-6-5-.36.01 Sales of Prepaid Wireless Service. **(NEW RULE)**

(1) The sale of prepaid wireless service constitutes the sale of tangible personal property subject to sales or use tax.

(2) The term "prepaid wireless service" as used in this rule shall mean, the right to use mobile telecommunications service, which must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount, and which may include rights to use non-telecommunications services or to download digital products or digital content.

(3) The definition of the term "mobile telecommunications service" contained in Section 40-21-120, Code of Alabama 1975, is incorporated by reference herein.

(4) Sales of prepaid telephone calling cards, prepaid authorization numbers, or both, constitute sales of tangible personal property subject to sales or use tax.

(a) The sale of prepaid wireless service that is evidenced by a physical card constitutes the sale of a prepaid telephone calling card, and

(b) The sale of prepaid wireless service that is not evidenced by a physical card constitutes the sale of a prepaid authorization number, including but not limited to, real time downloads, real time reloads, recharges, or other means that may be manually, electronically, or otherwise entered.

(5) For transactions that occurred prior to July 1, 2014, for which the consumer did not receive from the retailer either an authorization number or a physical card, neither the Department nor local tax officials may seek payment for sales tax not collected. This provision does not apply to audits that began or assessments that were entered prior to July 1, 2014. With regard to such transactions in which sales tax was collected and remitted, neither the taxpayer nor the entity remitting sales tax shall have the right to seek a refund of such tax.

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Authority: Sections 40-2A-7(a)(5), 40-23-1 and 40-23-31, Code of Alabama 1975 and Act 2014-336

History: